

Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.

ATTORNEY FOR APPELLANT:

KENNETH R. MARTIN
Goshen, Indiana

ATTORNEYS FOR APPELLEE:

STEVE CARTER
Attorney General of Indiana

ARTHUR THADDEUS PERRY
Deputy Attorney General
Indianapolis, Indiana

**IN THE
COURT OF APPEALS OF INDIANA**

ANDREW T. SERAFINE,
Appellant-Defendant,

VS.

STATE OF INDIANA,
Appellee-Plaintiff.

)
)
)
)
)
)
)
)
)

No. 20A03-0609-CR-399

APPEAL FROM THE ELKHART SUPERIOR COURT
The Honorable George W. Biddlecome, Judge
Cause No. 20D03-0405-FB-100

March 30, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

MAY, Judge

Andrew T. Serafine appeals the sentence he received after pleading guilty to possession with intent to manufacture methamphetamine, a Class B felony.¹ The trial court properly weighed the nature of the offense and Serafine's character, and we affirm his sentence.

FACTS AND PROCEDURAL HISTORY

On May 26, 2004, Serafine was charged with possession with intent to manufacture methamphetamine. On May 25, 2006, five days before trial, he agreed to plead guilty to the charge. The State agreed to recommend that Serafine be sentenced to no more than eight years at the Indiana Department of Correction and four years on home detention. The trial court sentenced Serafine to fifteen years imprisonment. He would serve eight years at the Department of Correction, followed by four years on home detention. The court suspended three years during which Serafine would be on probation.

DISCUSSION AND DECISION

Serafine argues his sentence was inappropriate in light of his character and the nature of the offense. Indiana Rule of Appellate Procedure 7(B) states: "The Court may revise a sentence authorized by statute if, after due consideration of the trial court's decision, the Court finds that the sentence is inappropriate in light of the nature of the offense and the character of the offender." We must give due consideration to the trial court's decision because of the special expertise of the trial bench in making sentencing

¹ Ind. Code § 35-48-4-1.

decisions, but App. R. 7(B) authorizes the revision of sentences when certain broad conditions are satisfied. *Patterson v. State*, 846 N.E.2d 723, 731 (Ind. Ct. App. 2006).

1. Nature of the Offense

Serafine was apprehended after he fled a traffic stop. The car in which Serafine had been traveling contained items used to manufacture methamphetamine, specifically HEET, starting fluid, and plastic tubing. The police described the vehicle as a “mobile meth lab.” (App. at 62, 79.) Serafine was in possession of methamphetamine and ammonium sulfate and he admitted he intended to manufacture methamphetamine. We acknowledge Serafine’s disagreement with the characterization of the vehicle as a “mobile meth lab.” However, we cannot say, in light of the dangers of methamphetamine manufacture and use, that his sentence imposing fifteen out of a possible twenty years was inappropriate.

2. Character of the Offender

Serafine argues the trial court should have given more weight as mitigating circumstances to his drug addiction and his guilty plea. Generally, the weight assigned to a mitigator is at the trial judge’s discretion, and the judge is under no obligation to assign the same weight to a mitigating circumstance as does the defendant. *Covington v. State*, 842 N.E.2d 345, 348 (Ind. 2006). Serafine did have drug addiction problems. However, the trial court properly gave little weight to that mitigator because Serafine had opportunities to address his dependency but had failed to successfully do so.

Nor did the trial court err in giving little weight to Serafine’s guilty plea. The plea came five days before trial, and Serafine received a substantial benefit in the form of a

reduction of the length of his incarceration. Where a defendant has received some benefit from his guilty plea, he is entitled to little, if any, mitigating weight for it at sentencing. *Banks v. State*, 841 NE.2d 654, 658-59 (Ind. Ct. App. 2006), *trans. denied* 855 N.E.2d 999 (Ind. 2006).

Serafine's criminal history includes convictions of burglary as a Class B felony, possession of cocaine as a Class D felony, dealing in cocaine as a Class B felony, possession of marijuana as a Class D felony, and disorderly conduct as a Class C misdemeanor. We cannot say Serafine's sentence was inappropriate in light of his criminal history and the absence of substantial mitigating circumstances.

Affirmed.

NAJAM, J., and MATHIAS, J., concur.